



US Army Corps
of Engineers
Alaska District

Public Notice

DATE: 24 July 2000

Regulatory Branch (1145b)
Juneau Field Office
Suite 106B
8800 Glacier Highway
Juneau, Alaska 99801

**IDENTIFICATION Nos.: GP 2000-01, GP 2000-02,
GP 2000-03, and GP 2000-04**

In reply refer to above Identification Number(s)

GENERAL PERMITS 2000-01, 2000-02, 2000-03 2000-04
General Permits for the City and Borough of Juneau, Alaska

The District Engineer, Alaska District, U.S. Army Corps of Engineers has issued four General Permits (GP): 2000-01, 2000-02, 2000-03, and 2000-04, under the authority of Section 404 of the Clean Water Act (Public Law 95-217, 33 U.S.C. 1344 et. seq.), for the mechanized landclearing and for the discharge of fill material into waters, including wetlands, of the United States, within the City and Borough of Juneau (CBJ) Alaska.

In response to Special Public Notice 00-03, dated April 28, 2000, the four proposed GPs 2000-01, 2000-02, 2000-03, and 2000-04 were revised to reflect comments submitted by local, State, and Federal agencies, and the interested public. Based on a review of all pertinent information, including a prepared Environmental Assessment, I have concluded that issuance of this permit will not have more than minimal adverse impact on the environment and is not contrary to the public interest.

Several changes have been made See CHANGES FROM GP 92-01, in the attached GP document.

These GPs will authorize the discharge of fill material into waters of the United States, including wetlands, for the purpose of creating foundation pads for structures, utilities, associated roads, driveways, parking areas, and other domestic, governmental, and commercial development, as well as enhancement of certain environmental situations. These GPs authorize mechanized landclearing and other activities that could result in a re-deposition of fill material.

The wetland units covered by these GPs, as described in the original GP 92-01, have been mapped on the CBJ Street Atlas. Maps showing the areas subject to authorization under these GPs, and areas specifically excluded from the GPs, are available for public use at the CBJ Department of Community Development, 155 South Seward Street, Juneau, Alaska, 99801-1397, telephone (907) 586-5235; and at the Alaska District, Corps of Engineers, Regulatory Branch, Juneau Field Office. Please note that these GPs will result in slight changes to those maps. The areas excluded from the GPs' coverage will be subject to an individual permit review. All authorized activities must be in accordance with the conditions of the GPs, a copy of which is attached. Failure to comply with the terms and conditions of these permits could result in suspension, modification, or revocation of the permit, and/or imposition of penalties as provided by law.

GPs 2000-01, 2000-02, 2000-03, and 2000-04 will be valid for a period of five years effective the date of this public notice. The District Engineer may at any time during this five-year period, alter, modify, suspend, or revoke this permit if he deems such action to be in the public interest.

Any comments or request for additional information should be directed to: Alaska District, Corps of Engineers, ATTN: Mr. John C. Leeds, III, Project Manager, Juneau Field Office, U.S. Army Corps of Engineers, Suite 106, 8800 Glacier Highway, Juneau,

Alaska 99801-8079, or contact Mr. Leeds at (907) 790-4490, or by FAX at (907) 790-4499

District Engineer
U.S. Army, Corps of Engineers

Attachments

GENERAL PERMITS 2000-01, 2000-02, 2000-03, 2000-04

Four General Permits (GP) 2000-01, 2000-02, 2000-03, and 2000-04, previously issued cumulatively as GP 92-1 on June 30, 1995, have been issued by the Alaska District, Corps of Engineers (Corps), in accordance with Title 33 CFR 325.2 (e)(2), as published in the Federal Register, Volume 51, Number 219, pursuant to Section 404 of the Clean Water Act (PL 95-217, 33 U.S.C. 1344), and authorize the mechanical land clearing of wetlands, and the placement of fill and/or dredged fill material into wetlands within the City and Borough of Juneau (CBJ) which have been designated 'C', 'D', 'EP', or as 'Road Corridors' in the Juneau Wetlands Management Plan (JWMP), dated February 1991, and adopted in revised form by the Coastal Policy Council on October 31, 1991, and as approved for incorporation into the Federally approved Alaska Coastal Management Plan (ACMP) pursuant to 15 C.F.R. 923.84, effective November 23, 1993 (see Attachment 1 for the list of approved management categories). All previous changes and revisions have been incorporated into the revised JWMP, dated February 1997. New changes to the GP and the JWMP are described below.

ACTIVITY These GPs authorize the placement of fill into certain wetlands in the CBJ

GP 2000-01 is for residential fill pads, site preparation, and driveways. Residential development is defined as the construction of single, attached and multi-family dwellings, a subdivision; a place used exclusively for human habitation; a person's fixed, permanent, and principal home for legal purposes. Residential development also includes work performed in association with the installation of driveways and of a dwelling's septic/sewer system. See CBJ Land Use Code, Title 49.

GP 2000-02 is for commercial, community and institutional development. Commercial development is defined as the construction of private facilities for the exchange or buying and selling of commodities. Commercial development structures include movie theaters, pool halls/arcades, video tape rentals, bingo halls, hotels/restaurants, hair salons, tanning salons, fabric/dress shops, daycare/baby-sitting facilities, lumber and hardware stores, etc. Public, or institutional, development is defined as the construction of facilities relating to business or community interests as opposed to private interests. Public development includes city halls, church buildings, post offices, fire stations, and similar projects. See CBJ Land Use Code, Title 49.

GP 2000-03 is for wetland functional enhancement projects See CBJ Land Use Code Title 49.

GP 2000-04 is for roads and other linear developments. New roads authorized by this GP include residential streets, alleys and collector streets, not arterials. Roads authorized by this GP shall be the minimum width necessary but no more than 75 feet width, including the right-of-way clearing. The only other linear developments authorized by this GP shall be utility lines, including water, gas, electricity, and cable. See CBJ Land Use Code, Title 49.

In addition to the restrictions described in the revised JWMP adopted by the Coastal Policy Council on October 31, 1991, and as approved for incorporation into the Federally approved Alaska Coastal Management Plan (ACMP) pursuant to 15 C.F.R. 923.84, effective November 23, 1993, no authorization for fill is granted by these GPs for the following activities: heavy industry, dry cleaning operations, battery transfer yards, commercial auto repair garages, fuel storage sites, hazardous waste management facilities, service stations, landfills, petro-chemical plants, or other projects involving the manufacture, storage, or disposal of waste/toxic substances. All activities built under these GPs shall conform to the CBJ Land Use Code. The impacts of fill pads for other uses are similar regardless of surface use; further review and decisions concerning surface uses in the areas covered by these GPs are appropriate to State and local government. These GPs do not apply to estuaries or anadromous riverine wetlands, protective greenbelts, or any other wetland or corridor not designated C, D, or EP, or as a Road Corridor. Mitigation activities, involving

either land clearing and/or the discharge of dredged or fill material into waters, including wetlands, of the United States, not administered by this GP, will require a separate Department of the Army authorization. These GPs are based on the JWMP, dated

February 1991, with the inclusion of revisions approved by the Coastal Policy Council on October 31, 1991, the revised list of wetland unit classifications with special conditions in the attachment to these GPs, the maps in the Juneau Wetlands, Functions and Values, Map Appendix, dated September 1987, the revised list of wetland unit classifications with special conditions and maps provided in the February 1997 revision of the JWMP, and will include the changes described below. These GPs will not be altered by any change in the CBJ's Plan unless the District Engineer determines that an alteration is not contrary to the public interest following a public interest review of the proposed change or alteration, and the GP is subsequently modified to incorporate these revisions.

CHANGES FROM GP 92-01

1. Wetland Units M49, M51 and M53 have been re-classified from Category C wetlands to Category A. An individual Department of the Army permit will be required prior to the discharge of fill into these wetlands.

2. The Shoreline Corridor Designation Rule has been changed such that all catalogued anadromous fish streams shall be classified at the highest value, Category A wetland type. The corridor boundary shall extend 100 feet landward from the ordinary high water mark. In addition, there shall be a 100-foot shoreline corridor around certain lakes, measured from the ordinary high water mark of the shoreline. See the Attachment to General Permits 2000-01, 2000-02, 2000-03 and 2000-04 below, for clarification

PROCEDURE: All applicants desiring to mechanically clear, or discharge dredged and/or fill material into United States waters under the terms of these GPs will submit an application to the CBJ Department of Community Development. The application will require descriptions of the location, proposed activity, purpose and need. The description will include quantities of fill, acreage of disturbed surface area, steps that the applicant proposes to take to comply with the mitigation policies of the JWMP, source of fill, and offsite disposal locations, supported by applicable drawings and narrative.

The CBJ will determine if the proposed mechanical land clearing, or discharge of dredged and fill material meets local permit requirements and is consistent with the criteria of the GP. In all cases the CBJ will proceed with its review as soon as it receives an application. The CBJ's determination of consistency is advisory, is not legally binding as to authorization under a particular GP, and does not constitute issuance of or authorization under the GPs.

For projects that would involve mechanically clearing, or filling between five and ten acres of wetlands, the CBJ will provide the Corps with a copy of the application; the Corps shall determine which GP applies and whether any additional special conditions shall be added to protect the Federal interest. The Corps shall have 15 days in which to make this determination. In reviewing an activity under the notification procedure, the District Engineer will determine whether the activity will result in more than minimal individual or cumulative adverse environmental effects or will be contrary to the public interest. The Corps shall notify the CBJ of its determination.

For projects that would involve mechanically clearing, or filling more than ten acres of wetlands, the CBJ will provide the application to the Corps, who shall determine within 30 days of receipt of a complete application whether one or more of the GPs apply, or if the proposed project requires an individual Department of the Army permit. The Corps shall notify the CBJ of its determination. If the proposed action meets the GPs' qualifications, the application would be returned to the CBJ.

For projects that would involve mechanically clearing, or filling five or less acres of wetlands, the CBJ will determine whether the proposed activity is located in areas designated as Road Corridors or classified as a C, D, or EP wetland and meets the criteria of one or more of the GPs. Upon issuance of the necessary CBJ Wetland Permit and other CBJ Title 49 Planning and Zoning permits, no further Corps action is required to proceed under one or more of these GPs. As is currently the case, the CBJ will require that all necessary municipal authorizations be obtained before the requested mechanical land clearing, or discharge of dredged and fill material can proceed. Relative to the GPs, the Corps retains its full legal authority and may suspend use of or find a violation of the GPs at any time it determines that an activity is not in compliance with the GPs, even if the CBJ has advised an applicant the activity meets the criteria of the GP's.

Authorization to proceed will require fulfillment of the general conditions specified here and of the special conditions applicable to particular sites as noted in the attachment to this notice, as well as fulfillment of any additional special conditions included in the CBJ Wetland Permit, as determined by the CBJ Wetlands Review Board. At the time of the issuance of the local authorization, the CBJ will give a copy of the conditions for these GPs to the individual.

The CBJ authorization of the CBJ Wetland Permit would expire in eighteen months, if no other required CBJ permits have been issued, or no substantial construction progress has been made pursuant to these local permits, unless otherwise specified in the CBJ Wetland Permit. For any partially completed work, the permittee shall restore the site to pre-project conditions or apply for an extension or reauthorization under the GP from the CBJ.

INDIVIDUAL AUTHORIZATIONS: Any project which has any local authorization denied, will be closed, and an application for an individual DA permit will not be accepted by the Corps. The Corps retains the final review and authority to determine compliance of a given activity with the GP. The CBJ is expected to confer with the Corps in questionable or borderline proposals before the requisite local authorization to proceed under the GP is issued.

REPORTING: The CBJ shall compile information on authorizations issued under this GP and provide the Corps with the following information on a quarterly basis: copies of all applications and authorizations made under each GP for each quarter. Reports shall be submitted to the District Engineer by the following dates: April 10 (for January 1- March 31), July 10 (for April 1-June 30), October 10 (for July 1-September 30), and January 10 (for October 1- December 31).

The CBJ will submit to the District Engineer once a year the following information: total acreage permitted for mechanical land clearing, or discharge of dredged and fill material, number of permits granted for each GP, average permit processing time, and enforcement activities. In addition, if the CBJ adopts and implements a mitigation banking plan, a copy of the appropriate wetland mitigation bank annual report will be submitted to the District Engineer.

IMPLEMENTATION: Implementation will be in accordance with the JWMP of February 1991, as amended by the Coastal Policy Council on October 31, 1991, and the site-specific changes described in this document, and in the revised JWMP, dated February 1997, and the CBJ implementing ordinance.

DURATION: These GPs are in effect for a period of 5 years. At the end of the 5-year period, an evaluation of the program will be made and at that time it will be decided whether one or more of these permits should be renewed.

MAPS AND JURISDICTIONAL BOUNDARIES: These GPs are based on the revised JWMP, dated February 1997, with the inclusion of revisions approved by the Coastal Policy Council on October 31, 1991, the revised list of wetland site classifications with special conditions attached to the original GP, and the maps in the Juneau Wetlands, Functions

and Values, Map Appendix, dated September 1987. The procedure for situations where the wetland designation or classification is in question and needs a more definitive jurisdictional determination consists of requesting field verification from the District Engineer. The wetland units covered by these GPs have been mapped on the CBJ Street Atlas. This Atlas is available for review from the CBJ Department of Community Development, 155 South Seward Street, Juneau, Alaska, 99801-1397; telephone (907) 586-5235. Please note the changes to the JWMP, resulting from the changes in the Shoreline Corridor Rule.

VERIFICATION: These GPs do not require notification to the District Engineer prior to commencement of the authorized activity, nor do they require confirmation from the District Engineer that a proposed activity is in full compliance with all terms and conditions of this GP as authorized.

Nevertheless, a General Permittee may choose to request in writing a verification that his proposed activity is authorized by a specific GP, by writing to the Alaska District, Corps of Engineers, Regulatory Branch, Juneau Field Office, Suite 106, 8800 Glacier Highway, Juneau, Alaska 99801-8079. Any written inquiry must include the following information:

- Name, address and telephone number of the applicant;
- 2 Location of the proposed work;
- 3 Brief description of the proposed work listed in the earlier Procedures Section of the specific GP;
- 4 Identification of the GP or permits which apply to the proposed work; and Any other information that the applicant believes is appropriate.

If the General Permittee's written request for verification is complete, accurate and made in good faith, and the Corps does not respond to such inquiry within 20 days after the Corps receives such inquiry, the General Permittee may proceed with the activity, provided all necessary CBJ permits are obtained. The General Permittee's authorization can only be suspended, modified or revoked in accordance with the procedure set forth in 33 CFR 325.7. If the Corps later determines that the General Permittee's written request for verification was inaccurate, incomplete or made in bad faith, and that the activity was not in fact authorized by the GP, the Federal Government may bring an appropriate enforcement action under 33 CFR Part 326.

GENERAL CONDITIONS: All authorizations issued under these GPs are subject to the conditions

1. The amount of fill authorized by these GPs shall not exceed the amount authorized by the CBJ in its wetland permit.

2. Activities authorized under these GPs shall not adversely impact adjacent estuarine, riverine, or A and B wetlands by causing ponding, drainage, siltation or inadvertent fill. The use of culverts or other methods may be required to ensure compliance with this condition. Shoreline corridors shall be designated measuring 100 feet landward (inclusive) of the ordinary high water mark of anadromous fish streams and lakes. This corridor will be classified as Category A Wetlands (see Shoreline Corridor Rule).

3. All fill material authorized under these GPs shall be free from toxic pollutants in toxic amounts, as defined by Alaska State law.

4. Upon completion of earthwork operations, all exposed slopes, fills and disturbed areas shall be properly stabilized, by appropriate means such as landscaping, or planting and maintaining vegetative cover to prevent subsequent erosion. All disturbed soil areas (exposed soils) shall be revegetated within the next growing season. Natural revegetation is acceptable if the site will be revegetated itself within the next growing season. If natural revegetation is not successful, additional measures shall be taken to ensure compliance with this condition, such as interim protective cover until natural regrowth occurs.

5. No borrow material may be obtained within 330 feet of an eagle nest. This does not absolve the applicant from responsibilities to protect bald eagles under provisions of the Bald Eagle Protection Act.

6. No borrow material may be obtained from an estuarine riverine, A or B wetland activities covered under these GPs.

7. These GPs do not apply for activities currently covered by a Nationwide Permit. No additional authorization is required for Nationwide-Permitted activities

8. The permittee must maintain the structure or work authorized by these GPs in good condition and in conformance with the terms and conditions of the specific GP. The permittee is not relieved of this requirement if the permittee abandons the permitted activity, although the permittee may make a good faith transfer to a third party. Should the permittee wish to cease to maintain the authorized activity or should the permittee desire to abandon it without a good faith transfer, the permittee must obtain a modification of this permit from this office, which may require restoration of the area.

9. All activities conducted under these GPs (including the use of new borrow sites) shall not take place in or adversely affect any existing historical properties listed or eligible for listing in the National Register of Historic Places or any historical properties found to be listed or eligible for listing on the National Register of Historic Places subsequent to the issuance of these GPs. If the permittee discovers any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, the permittee must immediately notify the Corps regarding the find. The Corps will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

10. The permittee must comply with any conditions specified as part of the State water quality certification, which is part of these GPs.

11. Methods shall be implemented to filter or settle out suspended sediments from all construction-related wastewater prior to its direct or indirect discharge into any natural body of water.

12. Design plans for any stormwater collection system to be placed into or associated with the authorized fill must be approved by the Alaska Department of Environmental Conservation prior to system construction or fill placement.

13. Measures shall be implemented to attenuate flows, remove oil, grease, and other petroleum products from the project's stormwater collection system, if one is required by the Alaska Department of Environmental Conservation.

14. Design plans for any on-site sewage disposal system associated with the proposed fill must be approved by the Alaska Department of Environmental Conservation prior to construction.

15. The permittee must allow the District Engineer, or his designated representatives, to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of these GPs.

16. These GPs shall not apply to any activity or uses which would involve the storage or use of hazardous materials or substances as part of their principal purpose. These materials are defined in the Resource Conservation and Recovery Act and the Comprehensive Environmental Response and Liability Act.

17. All activities authorized under these GPs must meet a clearly demonstrated need. The CBJ review and building permit shall be instrumental in this respect to help prevent speculative projects and/or those contrary to the general public interest.

18. The applicant must design his proposed project so as to minimize the area of wetlands needed to be filled.

19. Equipment Operation and Marking of Footprint: Prior to initiation of construction, the permitted project footprint and any applicable waterbody setbacks, wetland buffers, and/or other avoidance areas shall be clearly delineated, using stakes, flags, fencing, or other similar measures. No equipment used for activities permitted under these GPs shall be operated, stored, or serviced in wetlands, and no mechanized land clearing or discharge of fill material may occur, even temporarily, in wetlands or other waters beyond the project footprint or within avoidance areas.

20. All activities identified and authorized herein shall be consistent with the terms and conditions of the appropriate GP, and activities not specifically identified and authorized herein shall constitute a violation of the terms and conditions of that GP which result in the modification, suspension or revocation of any authorization in whole or in part, and in the institution of such legal proceedings as the United States Government may consider appropriate.

21. All activities authorized herein shall be conducted in a manner that is consistent with applicable water quality standards, effluent limitations and standards of performance, prohibitions, pretreatment standards, and management practices established pursuant to the Clean Water Act (PL 95-217 33 U.S.C. 1344), the Marine Protection, Research and Sanctuaries Act of 1972 (PL 92-532: 86 Stat. 1052) and pursuant to applicable State and local law.

22. The activity shall not jeopardize the continued existence of a threatened or endangered species, as identified under the Endangered Species Act, or endanger the critical habitat of such species.

23. The permittee shall implement the construction or operation of the work authorized herein in a manner so as to minimize adverse impact on fish, wildlife and natural environmental values. The project shall include all measures imposed by the CBJ Wetland Review Board to mitigate the adverse impacts of the work consistent with the enforceable policies of Chapter 3 of the JWMP, dated February 1991, as revised by the Coastal Policy Council on October 31, 1991.

24. These GPs shall not apply to mitigation activities involving either land clearing and/or the discharge of fill into estuaries or anadromous riverine wetlands, protective greenbelts, or any other wetland or corridor not designated C, D, or EP, or as a Road Corridor. For these situations, a Department of the Army permit application must be submitted to the Corps.

SPECIAL CONDITIONS: (pertaining to specific wetland unit designations in the JWMP)

1. **UM1:** Portions of the Category C area shall be retained undisturbed through a site plan review process that shall consider: (a) siting residences to the extent practicable to maximize use of the non-wetland areas or lower value wetland areas that occur within the unit; (b) restricting fill associated with the residences, driveways and roads to the minimum amount necessary to achieve project purposes; (c) use of site plan techniques to consolidate development. The area shall be retained in a low-density residential zoning (D1, D3, or D5). Construction mitigation techniques shall be used to avoid impacts to portions of the wetlands that shall not be developed. The CBJ staff shall consult with the agency working group on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board.

2. **M7, M9, M10, and M13:** If development is proposed in wetland units M7, M9, M10, or M13, the applicant shall be required to conduct mitigation to support and enhance the functioning of Jordan Creek in the area owned by the CBJ in Wetland Unit M7. The "Juneau Creeks Greenbelt Study", prepared by the CBJ with the assistance of the Alaska Department of Fish and Game in January 1984, lists possible mitigation projects for this section of Jordan Creek. These projects could be pursued as mitigation.

3. M9: Development of Wetland Unit M9 shall involve a site plan that shall consider: (a) restricting fill to the minimum amount necessary to achieve stated project purposes; (b) consolidating development; and (c) if development of the wetland is to occur in phases, the lower value areas shall be developed first to the extent practicable.

Construction mitigation techniques shall be used to avoid impacts to the portion of the wetland that is not developed. This should include maintaining the hydrologic connection to the undisturbed portion of the wetland through Wetland Unit M10. The CBJ staff shall consult with the agency working group on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board.

4. M49, M51, M53: These wetland units are re-classified as A wetlands. An individual Department of the Army permit will be required prior to the discharge of material into these wetlands previously categorized as C wetlands in the JWMP.

5. MW5: Fill shall be restricted to the minimum amount necessary to achieve project purposes and measures shall be taken to avoid impacts to portions of the wetland not developed. Applicants shall conduct mitigation that is appropriate to enhance the wetland values in the immediate area. For example, the applicant could be required to enhance waterfowl use of the area through development of waterfowl staging ponds on the CBJ-owned property (MW4) to enhance the regional ecological diversity of the area. The CBJ staff and Wetland Review Board shall be consulted to determine the appropriate mitigation strategy for any proposed project.

LIMITS OF THIS AUTHORIZATION:


1. These GPs or authorizations obtained under these GPs do not obviate the need to obtain other Federal, State, or local authorizations required by law, nor does it apply to activities denied by any State, Federal agency, or the CBJ.
2. These GPs do not convey property rights, either in real estate or material, or exclusive privileges; do not authorize injury to property, or invasion of rights or any infringement of Federal, State, or local laws or regulations; nor do these GPs nor any authorization obviate the requirement to obtain State or local assent required by law for the activity authorized herein.
3. These GPs or authorizations obtained under these GPs do not authorize interference with any existing or proposed Federal project.
4. In issuing these GPs or authorizations obtained under these GPs, the Federal Government does not assume any liability for the following:
 - a. Damages to an authorized project or uses thereof as a result of the permitted or non-permitted activities or from natural causes;
 - b. Damages to an authorized project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest;
 - c. Damages to persons, property, or to other permitted or non-permitted activities or structures caused by the activity authorized by this GP;
 - d. Design or construction deficiencies associated with the authorized work;
 - e. Damage claims associated with any future modification, suspension, or revocation of one or more of these GPs, or authorizations obtained under these GPs
5. This office may reevaluate its decision on the GPs or any determinations made under these GPs by either this office or the CBJ at any time the circumstances warrant. Circumstances that would require a reevaluation include, but are not limited to, the following:
 - a. The permittee or the CBJ fails to comply with the terms and conditions of a specific GP
 - b. The information provided by the permittee in support of an application for authorization under these GPs proves to have been false, incomplete, or inaccurate;
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision; or
 - d. The CBJ itself is found to be party to violations of the Clean Water Act. If the District Engineer determines that this has occurred, the District Engineer may require verification of all projects by the Regulatory Branch of the Alaska District, Corps of Engineers, until such time as the issue is resolved to the District Engineer's satisfaction.

Such a re-evaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring the permittee to comply with the terms and conditions of these GPs and for the initiation of legal action where appropriate.

The permittee shall be required to pay for any corrective measures ordered by this office, and if the permittee fails to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise, and bill the permittee for the cost.

BY AUTHORITY OF THE SECRETARY OF THE ARMY:

Date:

24 July 2000 

Glen E. Justis
Chief
East Section
Regulatory Branch
Alaska District Corps of
Engineers

Attachments

Note: These GPs are based on mapping by the Alaska District, Corps of Engineers, Regulatory Branch, as shown in the Juneau Wetlands, Functions and Values, Map Appendix, September 1987; many small wetlands not shown are protected by law, but are not included in these GPs.

Note: Shoreline Corridor Rule. Riverine and lacustrine shoreline corridors take priority over all other management categories and designations. All catalogued anadromous fish streams shall have a 100-foot shoreline corridor on each side of the stream, measured from the ordinary high water mark in the main channel up to the point shown in "An Atlas to the Catalog of Waters Important for Spawning, Rearing or Migration of Anadromous Fishes" indicating the presence of anadromous fish. The 100-foot shoreline corridor shall be designated and managed as Wetland Category A. There shall be a 100-foot shoreline corridor around lakes, measured from the ordinary high water mark of the shoreline; the lacustrine shoreline corridor shall only apply to bodies of water more than 20 acres in area with water depths in the deepest part of the basin exceeding 6.6 feet at low water. If the lacustrine wetland or adjacent palustrine wetland is Category A, then the 100-foot lakeshore corridor shall be Category A. In all other cases the lakeshore corridor shall be Category B. This rule applies only to wetlands; no uplands shall be included within the 100 foot A (or B) wetland corridors. The Shoreline Corridor Rule shall take precedence over the Residential Road Corridor Designation Rule, described below.

Note: The Residential Road Corridor Designation Rule is described on page 30 of the JWMP, February 1991, with further amendments by the Coastal Policy Council on October 31, 1991: The definition of "residential road corridor" is also discussed on page 5 of the revised JWMP, February 1997. It applies only to residential development on parcels where public water is already provided, the parcel is already affected by development and is subdivided into small lots. This rule allows residential development to be reviewed under Category C guidelines in cases where: (1) the residential parcel is in a development corridor served by public water and existing local access roads; (2) the property owner has no practicable upland alternative to wetland development; and (3) the proposal shall consist of only residential building pads and direct access to them. The Residential Road Corridor Rule is quoted in part here: "Undeveloped palustrine wetland residential parcels with no practicable upland development alternatives shall have a temporary 100-foot Category C designation corridor measured from the road frontage right-of-way,.... Developed palustrine residential parcels shall have a Category C designated envelope that is 30 percent larger than their existing fill footprint.... Undeveloped residential parcels with an upland practicable development alternative on the parcel shall retain their original designated management category."

M7, M9, M10, and M13: If development is proposed in wetland units M7, M9, M10, or M13, the applicant would be required to conduct mitigation to support and enhance the functioning of Jordan Creek in the area owned by the CBJ in Wetland Unit M7. The "Juneau Creeks Greenbelt Study", prepared by the CBJ with the assistance of the Alaska Department of Fish and Game in January 1984, lists possible mitigation projects for this section of Jordan Creek. These projects could be pursued as mitigation; however, the appropriate Federal, State and local Borough/City resource agencies will be consulted during the site plan review process to determine if this is the most appropriate mitigation for the proposed project.

M9: Development of wetland Unit M9 will involve a site plan review process that will consider: (1) restricting fill to the minimum amount necessary to achieve stated project purposes; (2) consolidating development; and (3) if development of the wetland is to occur in phases, developing to the extent practicable the lower value areas first. Measures shall be taken to avoid impacts to the portion of the wetland that is not developed. This would include maintaining the hydrologic connection to the undisturbed portion of the wetland through wetland Unit M10. CBJ staff will consult with the appropriate Federal, State and local Borough/City resource agencies on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board.

M49, M51, and M53: These wetland units are re-classified as Category A wetlands. An individual Department of the Army permit will be required prior to the discharge of material into these wetlands, which were previously categorized as 'C' wetlands in GP 92-01 and in the JWMP.

WEST VALLEY

MW5: Fill will be restricted to the minimum amount necessary to achieve project purposes and measures shall be taken to avoid impacts to portions of the wetland that will not be developed. CBJ staff will consult with the appropriate Federal, State and local Borough/City resource agencies on these issues during the site plan review process and when preparing a recommendation to the Wetlands Review Board. Applicants will be required to conduct mitigation that is appropriate to enhance the wetland values in the immediate area. For example: the applicant could be required to enhance waterfowl use of the area through development of waterfowl staging ponds on the CBJ-owned property (MW4) to enhance the regional ecological diversity of the area. The appropriate Federal, State and local Borough/City resource agencies will be consulted to determine if this is the most appropriate mitigation strategy for the proposed project.

Road Corridor in MW11 along Engineer's Cutoff Road applies only to lots that are already developed; Road Corridor would allow 30% expansion of the existing fill sites subject to restrictions associated with road corridors and stream corridors.

STATE OF ALASKA

DEPT. OF ENVIRONMENTAL CONSERVATION
DIVISION OF AIR AND WATER QUALITY
NON-POINT SOURCE WATER POLLUTION CONTROL

TONY KNOWLES, GOVERNOR
555 Condrava Street
Anchorage, AK 99501-2617
Phone: (907) 269-7564
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<http://www.state.ak.us/dec/>

July 18, 2000

Receipt for Certified Mail Z 526 022 669

John Leeds III
US Army Corps of Engineers
Reg. Branch, Juneau Office
8800 Glacier Highway
Juneau, AK 99801

Subject: General Permits 2000-01, -02, -03, and -04
City and Borough of Juneau
State I.D. No. AK 0005-05J

Dear Mr. Leeds:

In accordance with Section 401 of the Federal Clean Water Act of 1977 and provisions of the Alaska Water Quality Standards, the Department of Environmental Conservation is issuing the enclosed Certificate of Reasonable Assurance for the proposed general permits for wetland activities within the City and Borough of Juneau, Alaska.

This certification is one of the approvals required as part of a coastal management consistency determination issued by the Division of Governmental Coordination under AAC 50.070.

Department of Environmental Conservation regulations provide that any person who disagrees with any portion of this action may request an adjudicatory hearing in accordance with 18 AAC 15.200-920. This request should be mailed to the Commissioner of the Alaska Department of Environmental Conservation, 410 Willoughby Avenue, Suite 105, Juneau, Alaska 99801-1795. Please also send a copy of the request for hearing to the undersigned. Failure to submit a hearing request within thirty days of receipt of this letter constitutes a waiver of that person's right to judicial review of this action.

By copy of this letter we are advising the Division of Governmental Coordination of our actions and enclosing a copy of the certification for their use.

Sincerely,



Tim Rumpfelt
Environmental Specialist

Enclosure

CC: (with encl.)
ACMP, DNR/DOL
DGC, Juneau

EPA, AK Operations
F&WS

"Clean Air, Clean Water"

**STATE OF ALASKA
DEPARTMENT OF ENVIRONMENTAL CONSERVATION
CERTIFICATE OF REASONABLE ASSURANCE**

A Certificate of Reasonable Assurance, in accordance with Section 401 of the federal Clean Water Act and the Alaska Water Quality Standards, is issued to the US Army Corps of Engineers Alaska District, Regulatory Functions Branch, Juneau Field Office, 8800 Glacier Highway, Juneau, Alaska 99801, for the proposed following general permits (GPs), covering wetland activities with the City and Borough of Juneau.

GP 2000-01 is for residential fill pads, site preparation, and driveways; GP 2000-02 is for commercial, community, and institutional development; GP 2000-03 is for wetland functional enhancement; and GP 2000-04 is for roads and other linear development. The GPs authorize the discharge of fill material into wetlands within the City and Borough of Juneau, which have been designated "C", "D", "EP", or as Road Corridors, in the Juneau Wetlands Management Plan. The objective of the GPs is to allow planned, systematic development of private and commercial lots and selected government managed areas and expedite the permitting process in the aforementioned wetlands, while maintaining important wetland functions.

The proposed activity is located within the City and Borough of Juneau, Alaska

Public notice of the application for this certification was given as required by 18 AAC 15.180.

Water Quality Certification is required under Section 401 because the proposed activities will be authorized by a Corps of Engineers permits and a discharge may result.

Having reviewed the application and comments received in response to the public notice, the Alaska Department of Environmental Conservation certifies that there is reasonable assurance that the proposed activity, as well as any discharge which may result, will comply with applicable provisions of Section 401 of the Clean Water Act, the Alaska Water Quality Standards, 18 AAC 70, and the Standards of the Alaska Coastal Management Program, 6 AAC 80.

Date 7/18/00



Tim Rumfelt
Environmental Specialist

STATE OF ALASKA

OFFICE OF THE GOVERNOR

OFFICE OF MANAGEMENT AND BUDGET
DIVISION OF GOVERNMENTAL COORDINATION

TONY KNOWLES, GOVERNOR

□ SOUTHCENTRAL REGIONAL OFFICE
550 W. 7TH AVENUE, SUITE 1660
ANCHORAGE, ALASKA 99501
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□ CENTRAL OFFICE
P.O. BOX 110030
JUNEAU, ALASKA 99811-0030
PH: (907) 465-3562/FAX: (907) 465-3075

□ PIPELINE COORDINATOR'S OFFICE
411 WEST 4TH AVENUE, SUITE 2C
ANCHORAGE, ALASKA 99501-2343
PH: (907) 271-4317/FAX: (907) 272-0080

June 28, 2000

Mr. John Leeds
U.S. Army Corps of Engineers
Juneau Field Office
8800 Glacier Highway
Juneau, AK 99801

RECEIVED

JUN 29 2000

CENPA - CO - R - E - JFO
Alaska District Corps of Engineers

John
Dear Mr. Leeds:

SUBJECT: JUNEAU WETLANDS GP RENEWAL (Replace 92-1 with 2000-01 through -04)
STATE I.D. NO. AK0005-05J
FINAL CONSISTENCY DETERMINATION

The Division of Governmental Coordination (DGC) has completed coordinating the State's review, per the Federal Coastal Zone Management Act as per 15 CFR 30 Subpart C, of the proposed general permits for the City and Borough of Juneau for consistency with the Alaska Coastal Management Program (ACMP). I issued a proposed finding on 6/21.

Scope of Project Reviewed

The activity subject to this review is the Corps of Engineers' proposal to replace the existing General Permit (GP) 92-1, issued to the City and Borough of Juneau, with four GPs 2000-01, 2000-02, 2000-03, and 2000-04, for the mechanized landclearing and for the discharge of fill material into waters, including wetlands, of the United States within the City and Borough of Juneau. GP 92-1, which is scheduled to expire on 6/30/00, was reviewed for consistency; the previously approved GP was proposed for five years; thus, the scope of the previous consistency review covered five years. It authorized the discharge of fill material into wetlands within the City and Borough of Juneau which have been designated C, D, EP, or as Road Corridors, in the Juneau Wetlands Management Plan (JWMP), dated 2/91, adopted in revised form by the Coastal Policy Council on 10/31/91, and as approved for incorporation into the federally approved ACMP. Specifically, the new GPs will cover:

- GP 2000-01 -- residential fill pads, site preparation and driveways
- GP 2000-02 -- commercial, community and institutional development
- GP 2000-03 -- wetland functional enhancement
- GP 2000-04 -- roads and other linear development

These GPs would authorize the discharge activities previously covered in GP 92-1. GPs are considered appropriate for activities which are substantially similar in nature, which cause only minimal adverse environmental impact when performed separately, which would have only minor cumulative effect on water quality and which would provide a more effective administration of the Clean Water Act without creating an undue burden on the public. These GPs would continue to authorize the discharge activities previously covered in GP 92-1, if after consultation with federal and state regulatory and resource agencies, and public input, the COE district engineer determines that the proposed classes of activities would be minor, and would not have more than a minimal individual or cumulative impact on the human environment. The four new GPs, based on the revised Juneau Wetlands Management Plan (JWMP) dated February 1997, are proposed to be in effect five years. The public notice states: "At the end of the 5-year period, an evaluation of the program will be made and at that time it will be decided whether one or more of these permits should be renewed."

The activities covered by the GPs are described in detail within the COE public notice and GPs. The GPs contain 24 general conditions and five special conditions pertaining to specific wetland unit designations in the JWMP. The conditions are a part of the project description and scope of project being reviewed.

The division into four different permits is mainly administrative in nature. The scope of the project includes a change described in the attachment to GP 2000-01, 2000-02, 2000-03 and 2000-04 Shoreline Corridor Rule. The attachment provides that riverine and lacustrine shoreline corridors take priority over all other management categories and designations. All catalogued anadromous fish streams shall have a 100-foot shoreline corridor on each side of the stream, which shall be designated and managed as wetland category A. As such, M49, M51 and M53 will be reclassified as category A wetlands. This change allows for greater protection of coastal resources than previously afforded.

Background. On 6/30/95, the COE issued GP 92-1. The GP was reviewed for consistency with the ACMP under file AK920803-01J. GP 92-1 authorized the discharge of fill material into wetlands within the City and Borough of Juneau, which have been designated C, D, EP, or as Road Corridors in the JWMP, dated February 1991, adopted in revised form on 10/31/91. The JWMP was revised in February 1997, and incorporated all of the changes required by the GP and updated maps. During the five-year period for GP 92-1, there have been eight projects approved under GP 92-1, authorizing the placement of up to approximately 56,000 cubic yards of material into approximately 11 acres of wetlands. A history of ACMP reviews shows: (1) AK920803-01J, the GP 92-1 currently expiring; (2) AK920401-01J, a former version of the GP which was revised by the application submitted by the COE on 8/3/92 and subsequently reviewed under AK920803-01J. Also, as a historic note, AK9407-19J was a review of an "Accelerated Individual Permit Process Procedure, Special Public Notice 94-6 dated 3/24/94, where a COE

permit would have been required but an abbreviated public notice and review process would occur. This proposal was withdrawn prior to conclusion of the 1994 review.

State consistency response

This consistency determination applies to the following federal authorization per 6 AAC 50:

U.S. Army Corps of Engineers

Section 404 General Permit Nos. 2000-01, 2000-02, 2000-03, 2000-04

Alaska Department of Environmental Conservation (DEC)

Certificate of Reasonable Assurance (401)

No State agency may issue an authorization before DGC issues a final consistency finding. But, a consistency finding does not obligate any agency to issue authorization under its own statutory authorities, nor does it supersede its statutory obligations. Authorities outside the ACMP may result in additional permit/lease conditions not contained in the consistency determination.

The Alaska Departments of Environmental Conservation, Fish and Game, and Natural Resources, and the Juneau Coastal District, have reviewed the proposed general permits. Based on that review, the State agrees with the federal agency consistency determination that the project is consistent with the ACMP.

This final consistency determination is a final administrative decision for purposes of Alaska Appellate Rules 601-612. Any appeal from this decision to the superior court must be made within 30 days of the date of this determination.

Advisories.

The CBJ commented that GP 92-1 was found consistent with the JCMP, and the proposed GPs accomplish the same objectives as GP 92-1.

The CBJ also stated in its comments: Any stipulations previously applied to the General Permit 92-1 should still apply. In the most recent record of review for GP 92-1, AK920803-01J, the State issued a final consistency determination finding it consistent as proposed, with no additional stipulations. We note that the proposed GP contained several conditions, which comprise the project description and scope of project reviewed by the State.

The consistency determination may include reference to specific laws and regulations, but this in no way precludes your responsibility to comply with all other applicable State and federal laws and regulations.

Changes. This consistency determination is ONLY for the project (general permits) as described. If any changes to the GPs are proposed, including their intended use, you must contact this office immediately to determine if further review and approval of the revised project is necessary. Changes may require amendments to the State approval listed in this consistency determination or require additional authorizations.

If any activities reveal cultural or paleontological resources, work that would disturb such resources should be stopped and the State Historic Preservation Office should be immediately contacted (907-269-8720), as well as the U.S. Army Corps of Engineers (907-753-2712) so that consultation per section 106 of the National Historic Preservation Act may proceed.

If you have any questions, please contact me at 907-465-8790 or email lorraine_marshall@gov.state.ak.us.

Sincerely,



Lorraine Marshall
Project Review Coordinator

cc: Jim Powell, DEC
Ben Kirkpatrick, DFG
Bill Hanson, DFG
Terry Rader, DNR
Doug Sanvik, DNR *
Michele Jespersen, DNR SHPO
Sylvia Kreel, Juneau Coastal District
Duane Petersen, FWS
Linda Shaw, NMFS
Mark Jen, EPA

*Send via email to addressee and all cc's; * = mail*

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